

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 179937
ORIGIN L-03

INFO OCT-01 EA-07 ISO-00 SNM-02 SCA-01 JUSE-00 PPT-01
VO-03 DEAE-00 TRSE-00 SCS-03 /021 R

DRAFTED BY L/M:GALEHNER:LAE
APPROVED BY L/M:KEMALMBORG
EA/TB:HMEINHEIT
S/NM:DGIBSON

-----037847 020321Z /61

R 012105Z AUG 77
FM SECSTATE WASHDC
TO AMEMBASSY BANGKOK
INFO COMUSMACHTHAI BANGKOK

LIMITED OFFICIAL USE STATE 179937

E.O. 11652: N/A

TAGS: CPRS, PDIP, TH, US

SUBJECT: AMENDMENT TO THAI-US EXTRADITION TREATY

REF: A) 76 STATE 58720 B) 76 STATE 96210 C) 76 BANG-
KOK 34674

1. RE ARTICLE I BIS: ARTICLE I IN ORIGINAL TREATY MAY BE
INTERPRETED TO BE LIMITED TO OFFENSES COMMITTED WITHIN THE
TERRITORIAL JURISDICTION OF THE REQUESTING STATE. THIS ON
OCCASION HAS BEEN THE INTERPRETATION GIVEN TO SIMILAR
PROVISIONS. THE LANGUAGE OF ARTICLE I CREATING UNCERTAINTY
IN OUR VIEW, IS THE PHRASE "COMMITTED WITHIN THE JURISDIC-
TION OF ONE OF THE HIGH CONTRACTING PARTIES." THIS NARROWS
THE EARLIER REFERENCE TO PERSONS "OVER WHOM THEY
RESPECTIVELY EXERCISE JURISDICTION." GIVEN THIS NARROW
INTERPRETATION, WE COULD NOT REPEAT NOT, GRANT EXTRADITION
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 179937

TO THAILAND FOR COUNTERFEITING IF ACT WAS COMMITTED OUT-
SIDE THAILAND'S JURISDICTION. ARTICLE I BIS IS INTENDED TO
COVER THIS GAP. ARTICLE I BIS BROADENS THE SCOPE OF ARTICLE
I TO INCLUDE OFFENSES COMMITTED OUTSIDE THE TERRITORY OF THE
REQUESTING STATE IF THE REQUESTED STATE WOULD HAVE JURIS-
DICTION OVER THE OFFENSE IF COMMITTED IN SIMILAR CIRCUM-
STANCES. FOR EXAMPLE, IF A THAI CITIZEN COUNTERFEITS THAI

CURRENCY IN JAPAN AND SUBSEQUENTLY ENTERS THE U.S., UNDER ARTICLE I WE UNLIKELY BE ABLE GRANT EXTRADITION SINCE IN THE LANGUAGE OF THAT ARTICLE, THE CRIME WAS NOT COMMITTED "WITHIN THE JURISDICTION" OF THAILAND. UNDER ARTICLE I BIS WE WOULD GRANT EXTRADITION SINCE THE U.S. WOULD HAVE JURISDICTION TO TRY A PERSON WHO COUNTERFEITED U.S. CURRENCY OUTSIDE THE U.S.

2. WITH REGARD TO APPARENT DISCRETIONARY LANGUAGE IN PROPOSED ARTICLE I BIS, "SHALL HAVE POWER TO GRANT," WE ARE PREPARED TO MAKE THE LANGUAGE READ "SHALL GRANT THE EXTRADITION." HOWEVER, IT SHOULD BE EMPHASIZED THAT UNDER ARTICLE I BIS EXTRADITION FOR CRIMES COMMITTED OUTSIDE THE TERRITORY OF THE REQUESTING STATE SHALL ONLY BE GRANTED IF THE REQUESTED STATE WOULD HAVE JURISDICTION TO TRY THE OFFENSE IF COMMITTED IN SIMILAR CIRCUMSTANCES. FOR EXAMPLE, WHEREAS THAILAND MAY BE ABLE TO TRY A THAI CITIZEN WHO COMMITS MURDER IN INDONESIA, FOR EXAMPLE, AND RETURNS TO THAILAND, U.S. WOULD NOT GRANT EXTRADITION OF THAI CITIZEN WHO COMMITTED MURDER IN INDONESIA AND THEN FLED TO U.S., BECAUSE U.S. WOULD NOT HAVE JURISDICTION TO TRY OR SEEK EXTRADITION OF U.S. CITIZEN WHO COMMITTED MURDER IN INDONESIA AND ESCAPED TO THAILAND.

3. RE ARTICLE II: DEPARTMENT PREPARED TO INCLUDE LANGUAGE TO THE EFFECT THAT EXTRADITABLE OFFENSES SHOULD LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 179937

BE THOSE WHICH, ACCORDING TO LAWS OF BOTH PARTIES, ARE PUNISHABLE WITH IMPRISONMENT OF NOT LESS THAN ONE YEAR CONFINEMENT. DEPARTMENT SUGGESTS EMBASSY PROPOSE ADDITIONAL ARTICLE II BIS AS FOLLOWS:

ARTICLE II BIS

(1) EXTRADITABLE OFFENSES UNDER THIS TREATY ARE THOSE DESCRIBED IN ARTICLE II OF THIS TREATY WHICH ARE PUNISHABLE UNDER THE LAWS OF BOTH HIGH CONTRACTING PARTIES. IN THIS CONNECTION IT SHALL NOT MATTER WHETHER OR NOT THE LAWS OF THE HIGH CONTRACTING PARTIES PLACE THE OFFENSE WITHIN THE SAME CATEGORY OF OFFENSES OR DENOMINATE AN OFFENSE BY THE SAME TERMINOLOGY.

(2) EXTRADITION SHALL BE GRANTED IN RESPECT OF AN EXTRADITABLE OFFENSE:

(A) FOR PROSECUTION, IF THE OFFENSE IS PUNISHABLE UNDER THE LAWS OF BOTH CONTRACTING PARTIES BY DEPRIVATION OF LIBERTY FOR A MAXIMUM PERIOD EXCEEDING ONE YEAR, OR

(B) FOR THE ENFORCEMENT OF A PENALTY OR A DETENTION ORDER, IF THE DURATION OF THE PENALTY OR DENTENTION ORDER STILL TO BE SERVED, OR WHEN, IN THE AGGREGATE, SEVERAL SUCH PENALTIES OR DETENTION ORDERS STILL TO BE SERVED AMOUNT TO AT LEAST SIX MONTHS.

(3) SUBJECT TO THE CONDITIONS SET OUT IN PARAGRAPHS (1) AND (2), EXTRADITION SHALL ALSO BE GRANTED FOR ANY EXTRADITABLE OFFENSE WHEN, ONLY FOR THE PURPOSE OF GRANTING JURISDICTION TO THE UNITED STATES GOVERNMENT, TRANSPORTATION, TRANSMISSION OF PERSONS OR PROPERTY, THE USE OF THE MAILS AND OTHER MEANS OF CARRYING OUT INTERSTATE OR FOREIGN COMMERCE IS ALSO AN ELEMENT OF THE SPECIFIC OFFENSE.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 179937

4. PARAGRAPH 3 OF ABOVE ARTICLE II BIS IS REQUIRED TO INSURE THAT EXTRADITION WILL BE GRANTED FOR FEDERAL FELONIES WHICH DEPEND ON USE OF INTERSTATE FACILITIES, ETC. FOR JURISDICTION. UNDERLYING MOST FEDERAL FELONIES ARE THE CRIMES AS LISTED IN THE TREATY, BUT SPECIFIC ELEMENT OF OFFENSE IS USE OF INTERSTATE COMMERCE, ETC. OUR PAST EXPERIENCE INDICATES THAT WITHOUT THIS PROVISION, MANY EXTRADITION REQUESTS ARE OFTEN DENIED ON TECHNICAL GROUNDS.

5. RE ARTICLE III: DEPARTMENT APPRECIATES EMBASSY EFFORT IN EXPLAINING U.S. POSITION RE ARTICLE III. UNDER ARTICLE VIII OF EXISTING TREATY, U.S. IS PRECLUDED (BY RULINGS OF SUPREME COURT) TO EXTRADITE U.S. NATIONALS. UNDER PROPOSED ARTICLE III U.S. WOULD BE ABLE TO EXTRADITE U.S. CITIZENS.

6. RE PARAGRAPH 5, REF C: DEPARTMENT DOES NOT LIMIT TERM "CONVENTION" TO MULTILATERAL AGREEMENTS. DEPARTMENT TREATY OFFICE RECOMMENDS THAT AGREEMENT BE CALLED EITHER SUPPLEMENTARY CONVENTION OR PROTOCOL. WE AGREE THAT "PROTOCOL OF AMENDMENT" IS NOT A PROPER OR ACCURATE TERM.

7. DEPARTMENT REGRETS LONG DELAY IN RESPONDING TO EMBASSY'S INQUIRY, BUT HOPES THIS RESPONSE WILL HELP TO MOVE DISCUSSIONS ALONG IN BANGKOK. CHRISTOPHER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AMENDMENTS, EXTRADITION AGREEMENTS
Control Number: n/a
Copy: SINGLE
Sent Date: 01-Aug-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE179937
Document Source: CORE
Document Unique ID: 00
Drafter: GALEHNER:LAE
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770275-1161
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t197708109/aaaadpdz.tel
Line Count: 163
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 9bfe2150-c288-dd11-92da-001cc4696bcc
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 58720, 76 STATE 96210
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 11-Apr-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1428625
Secure: OPEN
Status: NATIVE
Subject: AMENDMENT TO THAI-US EXTRADITION TREATY
TAGS: CPRS, PDIP, TH, US
To: BANGKOK
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/9bfe2150-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009